

HOUSE BILL No. 1488

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1; IC 25-34.3.

Synopsis: Licensure of building contractors. Establishes the residential building contractors licensing board to regulate residential building contractors. Establishes the licensing requirements for residential building contractors. Allows a local unit of government to license residential building contractors who have less than five years experience. Provides that a person who acts or advertises as a residential building contractor without a license or after a person's license has expired or has been suspended, revoked, or otherwise restricted commits a Class A misdemeanor.

Effective: Upon passage; July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1488

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-1-2-2.1, AS AMENDED BY P.L.162-2002,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2.1. Rather than being issued annually, the
4 following permits, licenses, certificates of registration, or evidences of
5 authority granted by a state agency must be issued for a period of two
6 (2) years or for the period specified in the article under which the
7 permit, license, certificate of registration, or evidence of authority is
8 issued if the period specified in the article is longer than two (2) years:
9 (1) Certified public accountants, public accountants, and
10 accounting practitioners.
11 (2) Architects and landscape architects.
12 (3) Dry cleaners.
13 (4) Professional engineers.
14 (5) Land surveyors.
15 (6) Real estate brokers.
16 (7) Real estate agents.
17 (8) Security dealers' licenses issued by the securities



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- 1 commissioner.
- 2 (9) Dental hygienists.
- 3 (10) Dentists.
- 4 (11) Veterinarians.
- 5 (12) Physicians.
- 6 (13) Chiropractors.
- 7 (14) Physical therapists.
- 8 (15) Optometrists.
- 9 (16) Pharmacists and assistants, drugstores or pharmacies.
- 10 (17) Motels and mobile home park licenses.
- 11 (18) Nurses.
- 12 (19) Podiatrists.
- 13 (20) Occupational therapists and occupational therapy assistants.
- 14 (21) Respiratory care practitioners.
- 15 (22) Social workers, marriage and family therapists, and mental
- 16 health counselors.
- 17 (23) Real estate appraiser licenses and certificates issued by the
- 18 real estate appraiser licensure and certification board.
- 19 (24) Wholesale legend drug distributors.
- 20 (25) Physician assistants.
- 21 (26) Dietitians.
- 22 (27) Hypnotists.
- 23 (28) Athlete agents.
- 24 (29) Manufactured home installers.
- 25 **(30) Residential building contractors.**
- 26 SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.162-2002,
- 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2003]: Sec. 6. (a) As used in this section, "license" includes
- 29 all occupational and professional licenses, registrations, permits, and
- 30 certificates issued under the Indiana Code, and "licensee" includes all
- 31 occupational and professional licensees, registrants, permittees, and
- 32 certificate holders regulated under the Indiana Code.
- 33 (b) This section applies to the following entities that regulate
- 34 occupations or professions under the Indiana Code:
- 35 (1) Indiana board of accountancy.
- 36 (2) Indiana grain buyers and warehouse licensing agency.
- 37 (3) Indiana auctioneer commission.
- 38 (4) Board of registration for architects and landscape architects.
- 39 (5) State board of barber examiners.
- 40 (6) State board of cosmetology examiners.
- 41 (7) Medical licensing board of Indiana.
- 42 (8) Secretary of state.

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- 1 (9) State board of dentistry.
- 2 (10) State board of funeral and cemetery service.
- 3 (11) Worker's compensation board of Indiana.
- 4 (12) Indiana state board of health facility administrators.
- 5 (13) Committee of hearing aid dealer examiners.
- 6 (14) Indiana state board of nursing.
- 7 (15) Indiana optometry board.
- 8 (16) Indiana board of pharmacy.
- 9 (17) Indiana plumbing commission.
- 10 (18) Board of podiatric medicine.
- 11 (19) Private detectives licensing board.
- 12 (20) State board of registration for professional engineers.
- 13 (21) Board of environmental health specialists.
- 14 (22) State psychology board.
- 15 (23) Indiana real estate commission.
- 16 (24) Speech-language pathology and audiology board.
- 17 (25) Department of natural resources.
- 18 (26) State boxing commission.
- 19 (27) Board of chiropractic examiners.
- 20 (28) Mining board.
- 21 (29) Indiana board of veterinary medical examiners.
- 22 (30) State department of health.
- 23 (31) Indiana physical therapy committee.
- 24 (32) Respiratory care committee.
- 25 (33) Occupational therapy committee.
- 26 (34) Social worker, marriage and family therapist, and mental
- 27 health counselor board.
- 28 (35) Real estate appraiser licensure and certification board.
- 29 (36) State board of registration for land surveyors.
- 30 (37) Physician assistant committee.
- 31 (38) Indiana dietitians certification board.
- 32 (39) Indiana hypnotist committee.
- 33 (40) Attorney general (only for the regulation of athlete agents).
- 34 (41) Manufactured home installer licensing board.
- 35 (42) **Residential building contractors licensing board.**
- 36 (43) Any other occupational or professional agency created after
- 37 June 30, 1981.
- 38 (c) Notwithstanding any other law, the entities included in
- 39 subsection (b) shall send a notice of the upcoming expiration of a
- 40 license to each licensee at least sixty (60) days prior to the expiration
- 41 of the license. The notice must inform the licensee of the need to renew
- 42 and the requirement of payment of the renewal fee. If this notice of

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expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 3. IC 25-1-6-3, AS AMENDED BY P.L.162-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Residential building contractors licensing board (IC 25-34.3-3-1).**

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 4. IC 25-1-7-1, AS AMENDED BY P.L.162-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.



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"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15-9).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (24) Respiratory care committee (IC 25-34.5).
- (25) Private detectives licensing board (IC 25-30-1-5.1).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental

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health counselor board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) **Residential building contractors licensing board (IC 25-34.3-3-1).**

(37) Any other occupational or professional agency created after June 30, 1981.

SECTION 5. IC 25-1-8-1, AS AMENDED BY P.L.162-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Mining board (IC 22-10-1.5-2).

(14) Indiana state board of nursing (IC 25-23-1).

(15) Indiana optometry board (IC 25-24).

(16) Indiana board of pharmacy (IC 25-26).

(17) Indiana plumbing commission (IC 25-28.5-1-3).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board



- 1 (IC 25-35.6-2).
- 2 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 3 (22) Indiana board of veterinary medical examiners
- 4 (IC 15-5-1.1-3).
- 5 (23) Department of insurance (IC 27-1).
- 6 (24) State police department (IC 10-1-1-1), for purposes of
- 7 certifying polygraph examiners under IC 25-30-2.
- 8 (25) Department of natural resources for purposes of licensing
- 9 water well drillers under IC 25-39-3.
- 10 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 11 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 12 (28) Social worker, marriage and family therapist, and mental
- 13 health counselor board (IC 25-23.6-2-1).
- 14 (29) Real estate appraiser licensure and certification board
- 15 (IC 25-34.1-8).
- 16 (30) State board of registration for land surveyors
- 17 (IC 25-21.5-2-1).
- 18 (31) Physician assistant committee (IC 25-27.5).
- 19 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 20 (33) Board of podiatric medicine (IC 25-29-2-1).
- 21 (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- 22 (35) Indiana physical therapy committee (IC 25-27).
- 23 (36) Manufactured home installer licensing board (IC 25-23.7).
- 24 (37) **Residential building contractors licensing board**
- 25 **(IC 25-34.3-3-1).**
- 26 (38) Any other occupational or professional agency created after
- 27 June 30, 1981.
- 28 SECTION 6. IC 25-1-11-1, AS AMENDED BY P.L.162-2002,
- 29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of
- 31 the following:
- 32 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 33 (2) Board of registration for architects and landscape architects
- 34 (IC 25-4-1-2).
- 35 (3) Indiana auctioneer commission (IC 25-6.1-2).
- 36 (4) State board of barber examiners (IC 25-7-5-1).
- 37 (5) State boxing commission (IC 25-9-1).
- 38 (6) State board of cosmetology examiners (IC 25-8-3-1).
- 39 (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- 40 (8) State board of funeral and cemetery service (IC 25-15-9).
- 41 (9) State board of registration for professional engineers
- 42 (IC 25-31-1-3).

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- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Residential building contractors licensing board (IC 25-34.3-1).**

SECTION 7. IC 25-34.3 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 34.3. RESIDENTIAL BUILDING CONTRACTORS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who constructs or contracts to construct for compensation single family residences.

(b) This article does not apply to the following:

- (1) An individual who acts as a general contractor for the construction of not more than one (1) single family residence per calendar year when the individual intends to occupy the residence personally.**
- (2) An individual who is employed as a subcontractor by a licensed residential building contractor to perform one (1) or more tasks involved in the construction of a single family residence.**
- (3) An individual who is acting within the scope of the individual's employment as a code enforcement official for the state or a political subdivision of the state.**
- (4) An individual who is:**
 - (A) registered as an architect under IC 25-4;**
 - (B) registered as a professional engineer under IC 25-31;**
 - or**
 - (C) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5.**
- (5) An individual who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.**
- (6) An individual who is licensed or certified as a real estate appraiser under IC 25-34.1 and is acting within the scope of the individual's license or certificate.**
- (7) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.**



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- (8) An individual who holds a permit, certificate, or license to:
- (A) use and apply pesticides; or
 - (B) make diagnostic inspections and reports for wood destroying pests;
- under IC 15-3-3.6 and is acting within the scope of the individual's certificate or license.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-6-3.

Sec. 3. "Applicant" means an individual who applies for a residential building contractor's license under this article.

Sec. 4. "Board" refers to the residential building contractors licensing board established by IC 25-34.3-3-1.

Sec. 5. "Client" means an individual who contracts with a residential building contractor for the construction of a single family residence.

Sec. 6. "Licensee" means an individual who is licensed under this article as a residential building contractor.

Sec. 7. "Residential building contractor" means an individual who, for a fixed price, commission, fee, or wage:

- (1) attempts to bid or submits a bid to construct or contract for;
- (2) undertakes;
- (3) assumes charge in a supervisory capacity of; or
- (4) manages;

the construction of a single family residence.

Sec. 8. "Single family residence" means a project consisting of at least one (1) but not more than four (4) units of new construction, each designed for residential occupancy by a single family, when the cost of the project is at least twenty thousand dollars (\$20,000).

Chapter 3. Residential Building Contractors Licensing Board

Sec. 1. The residential building contractors licensing board is established.

Sec. 2. (a) The board consists of seven (7) members appointed by the governor as follows:

- (1) Five (5) members, each of whom:
 - (A) is licensed in Indiana as a residential building contractor;
 - (B) has been actively engaged in residential construction



for at least five (5) years immediately before the member's appointment to the board; and
(C) does not reside in the same congressional district as any other member.

(2) Two (2) members who are not:

(A) actively engaged in; or

(B) retired from;

residential construction.

(b) Members of the board must be residents of Indiana.

Sec. 3. (a) Each member of the board serves a term of three (3) years and until a successor is appointed and qualified.

(b) The governor may remove a board member at any time for incompetency, neglect of duty, or unprofessional conduct.

(c) If a vacancy occurs in the membership of the board, the governor shall appoint an individual to serve for the remainder of the unexpired term.

(d) A member may not serve on the board for more than six (6) consecutive years.

Sec. 4. (a) Each year the board shall elect a member as chairperson and a member as vice chairperson.

(b) The chairperson and the vice chairperson shall serve in their respective capacities for one (1) year and until a successor is elected.

(c) The chairperson and the vice chairperson may not serve in those capacities for more than two (2) consecutive years.

Sec. 5. (a) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson may direct.

(b) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

Sec. 6. (a) The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

(b) The chairperson shall establish the time and place for each meeting.

(c) A majority of the current members of the board constitutes a quorum.

(d) Unless otherwise provided in this article, the affirmative vote



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1 of a majority of the members appointed to the board is necessary
2 for the board to take official action.

3 Sec. 7. (a) Each member of the board is entitled to the minimum
4 salary per diem as provided by IC 4-10-11-2.1(b).

5 (b) Each member of the board is entitled to reimbursement for
6 traveling expenses and other expenses actually incurred in
7 connection with the member's duties, as provided by IC 4-13-1-4
8 and the state policies and procedures established by the Indiana
9 department of administration and approved by the budget agency.

10 Sec. 8. The board shall do the following:

11 (1) Administer and enforce this article.

12 (2) Adopt rules under IC 4-22-2 that are reasonably necessary
13 or appropriate for the administration and enforcement of this
14 article.

15 (3) Prescribe the requirements for and the form of licenses,
16 applications, and other documents required by this article.

17 (4) Issue, deny, suspend, and revoke licenses in accordance
18 with this article.

19 (5) In accordance with IC 25-1-7, investigate complaints
20 concerning licensees or persons the board has reason to
21 believe should be licensees, including complaints concerning
22 failure to comply with this article or rules adopted under this
23 article, and, when appropriate, take action under
24 IC 25-34.3-8.

25 (6) Bring actions in the name of the state in an appropriate
26 circuit court in order to enforce compliance with this article
27 or the rules adopted under this article.

28 (7) Establish fees in accordance with IC 25-1-8.

29 (8) Inspect the records of a licensee in accordance with rules
30 adopted by the board.

31 (9) Conduct or designate a member or other representative to
32 conduct public hearings on any matter for which a hearing is
33 required under this article and exercise all power granted
34 under IC 4-21.5.

35 (10) Adopt a seal containing the words "Residential Building
36 Contractors Licensing Board" and, through the board's
37 executive director, certify copies and authenticate all acts of
38 the board.

39 (11) In accordance with IC 25-1-6:

40 (A) employ counsel, consultants, and all other persons;

41 (B) enter into contracts; and

42 (C) authorize expenditures;

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that are reasonably necessary or appropriate to administer and enforce this article and rules adopted under this article.

(12) Establish continuing education requirements for licensed residential building contractors in accordance with IC 25-1-4.

(13) Maintain the board's office, files, records, and property in the city of Indianapolis.

(14) Exercise all other powers specifically conferred on the board by this article.

Chapter 4. Licensing Agency; Board Secretary

Sec. 1. The agency shall provide the board with a competent person to serve as secretary of the board. The secretary is not a member of the board. The secretary, through the agency, shall do the following:

(1) Provide reasonable notice to board members of the time and place of each meeting.

(2) Keep a complete and accurate record of all:

(A) meetings;

(B) votes taken by the board; and

(C) other proceedings, transactions, communications, official acts, and records of the board.

(3) Keep a current file of all licenses and licensees.

(4) Perform any other duties assigned by the board.

Sec. 2. The agency shall provide the board with clerical or other assistants, including investigators, necessary for the proper performance of the board's duties.

Sec. 3. The secretary shall receive and account for all money collected under this article and deposit the money in the state general fund with the treasurer of state. All expenses incurred in the administration of this article shall be paid from the state general fund.

Chapter 5. Licensing Requirements

Sec. 1. Unless exempt under this article, a person may not act as a residential building contractor for compensation without first obtaining from the board a residential building contractor license.

Sec. 2. (a) An individual who applies for a license as a residential building contractor must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has successfully graduated from high school or earned a state general educational development (GED) diploma; and



1 (C) has not been:

2 (i) convicted of an act that would constitute a ground for
3 disciplinary sanction under IC 25-1-11;

4 (ii) convicted of a crime that has a direct bearing on the
5 individual's ability to perform competently and fully as
6 a licensee; or

7 (iii) the subject of a disciplinary or enforcement action
8 by another state or a local jurisdiction in connection with
9 the construction of single family residences or the
10 certification or licensing of residential building
11 contractors.

12 (2) Verify the information submitted on the application form.

13 (3) Pass a written examination prepared and administered by
14 the board concerning Indiana law that applies to the
15 construction of single family residences unless the individual
16 submits proof that the individual has:

17 (A) successfully completed within the three (3) year period
18 immediately preceding the date of the individual's license
19 application at least five (5) projects requiring the issuance
20 of a building permit;

21 (B) successfully completed within the twelve (12) month
22 period immediately preceding the date of the individual's
23 license application at least one (1) project requiring the
24 issuance of a building permit; or

25 (C) obtained equivalent experience or training concerning
26 the techniques and processes involved in the construction
27 of single family residences that is acceptable to the board.

28 (4) Submit to the board a certificate of insurance or other
29 evidence of financial responsibility that is acceptable to the
30 board:

31 (A) issued by an insurance company or other legal entity
32 authorized to transact business in Indiana;

33 (B) providing for general liability coverage of at least one
34 hundred thousand dollars (\$100,000);

35 (C) listing the state as an additional insured;

36 (D) stating that cancellation or nonrenewal of the
37 underlying policy or other evidence of financial
38 responsibility is not effective until the board receives at
39 least ten (10) days notice of the cancellation or
40 nonrenewal; and

41 (E) containing any other terms and conditions established
42 by the board.

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1 (5) Pay the fee established by the board.

2 (b) An individual applying for a license as a residential building
3 contractor must apply on a form prescribed and provided by the
4 board.

5 Sec. 3. (a) A nonresident whom the board determines meets the
6 requirements of this article and files the written consent described
7 in subsection (b) may be licensed as a residential building
8 contractor in Indiana.

9 (b) A nonresident applicant shall file with the board a written
10 consent stating that, if licensed:

11 (1) the applicant agrees to the commencement of an action
12 arising out of the conduct of the applicant's business in
13 Indiana in the county in which the events giving rise to the
14 cause of action occurred;

15 (2) the applicant:

16 (A) agrees to provide to the board the name and address of
17 an agent to receive service of process in Indiana; or

18 (B) consents to the board acting as the applicant's agent for
19 the purpose of receiving service of process, if:

20 (i) an agent's name and address has not been filed with
21 the board; or

22 (ii) the agent's name and address on file with the board
23 is incorrect; and

24 (3) the applicant agrees that service of process in accordance
25 with the Indiana Rules of Trial Procedure is proper service
26 and subjects the applicant to the jurisdiction of Indiana
27 courts.

28 Sec. 4. The board shall consider the following criteria when
29 reviewing a license application:

30 (1) The applicant's training and experience in the construction
31 of single family residences.

32 (2) The applicant's past performance as a single family
33 residential construction contractor.

34 (3) Whether the applicant has provided adequate evidence of
35 financial responsibility to protect persons who may suffer
36 legal damages as the result of the applicant's operation as a
37 residential building contractor.

38 (4) The applicant's compliance with this article, rules adopted
39 by the board under this article, or any other applicable
40 Indiana law.

41 (5) Any other criteria adopted by the board and made
42 available to:

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(A) all applicants; and

(B) members of the public upon request.

Sec. 5. All licenses issued by the board remain the property of the board.

Sec. 6. A licensee shall notify the board immediately of any change of:

(1) name;

(2) name under which the licensee conducts business; or

(3) business address.

Sec. 7. An individual who makes proper and complete application to the board and who is denied a license under this article has all of the rights and remedies prescribed under IC 4-21.5.

Chapter 6. License Renewal

Sec. 1. A license issued in accordance with IC 25-34.3-5 expires two (2) years after the date of issuance at a time and date designated by the board.

Sec. 2. An individual who applies to renew a license as a residential building contractor must:

(1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and

(2) pay the renewal fee established by the board.

Sec. 3. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 4. Before the end of each license period, each licensee must complete the continuing education required by the board. This requirement may not exceed twenty (20) hours per year.

Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

(2) Establish a fee for each hour of continuing education required after a license is issued or renewed.

(3) Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of residential building contractors.

Sec. 6. The board shall consider the criteria listed in IC 25-34.3-5-4 in reviewing applications for license renewal.

Chapter 7. Unit Licensing Authority



1 **Sec. 1.** As used in this chapter, "unit" has the meaning set forth
2 in IC 36-1-2-23.

3 **Sec. 2.** A unit may adopt licensing requirements that are more
4 stringent than the provisions of this article for residential building
5 contractors who have less than five (5) years experience. However,
6 a unit may not require a person who is licensed under this article
7 to file evidence of insurance or post a surety bond or other form of
8 financial responsibility.

9 **Sec. 3.** Except as provided in this article, a unit or state agency
10 may not impose any registration, certification, or licensing fees on
11 a residential building contractor.

12 **Chapter 8. Disciplinary Proceedings; Enforcement**

13 **Sec. 1.** The board may take disciplinary actions against or
14 impose sanctions on a licensee under IC 25-1-11 for any of the
15 following:

16 (1) Accepting commissions or allowances, directly or
17 indirectly, from other parties dealing with the licensee's client
18 in connection with any work for which the licensee is
19 responsible.

20 (2) Failing to disclose to a client information about any
21 business interest of the licensee that may affect the client in
22 connection with any work for which the licensee is
23 responsible.

24 (3) Violating any provisions of this article or rules adopted by
25 the board under this article.

26 (4) Making a false or misleading representation in:

27 (A) a license or renewal application form; or

28 (B) information provided to the board.

29 (5) Failing to pay any fees or fines required by this article.

30 (6) Failing to maintain continuously the insurance or other
31 evidence of financial responsibility required by this article.

32 (7) Communicating to the public false or misleading
33 information concerning the license held.

34 (8) Failing to complete the continuing education requirements
35 established by the board.

36 **Sec. 2.** The procedures set forth in IC 4-21.5 govern the board's
37 conduct of disciplinary hearings.

38 **Sec. 3.** The board may summarily suspend a license for up to
39 ninety (90) days before a final adjudication or during an appeal of
40 the board's determination if the board finds that the licensee
41 represents a clear and immediate danger to the public's health,
42 safety, or property if the licensee is allowed to construct single

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1 family residences. The summary suspension may be renewed upon
2 a hearing before the board for up to ninety (90) days.

3 Sec. 4. (a) If the board determines that an individual who is not
4 licensed under this article is engaged in or believed to be engaged
5 in activities for which a license is required under this article, the
6 board may issue an order to that individual requiring the
7 individual to show cause why the individual should not be ordered
8 to cease and desist from the activities. The show cause order must
9 set forth a date, time, and place for a hearing at which the affected
10 individual may appear and show cause as to why the individual
11 should not be subject to licensing under this article.

12 (b) If the board, after a hearing, determines that the activities
13 in which the individual is engaged are subject to licensing under
14 this article, the board may issue a cease and desist order that
15 describes the individual and activities that are the subjects of the
16 order.

17 (c) A cease and desist order issued under this section is
18 enforceable in the circuit courts.

19 Sec. 5. An individual who knowingly or intentionally:

- 20 (1) engages in or offers to engage in the construction of single
- 21 family residences without being licensed or without being
- 22 exempt from licensing under Indiana law;
- 23 (2) presents as the individual's own the license of another;
- 24 (3) intentionally gives false or materially misleading
- 25 information of any kind to the board or to a board member in
- 26 connection with licensing matters;
- 27 (4) impersonates another licensee;
- 28 (5) uses an expired, a suspended, a revoked, or otherwise
- 29 restricted license; or
- 30 (6) otherwise violates this article;

31 commits a Class A misdemeanor.

32 Sec. 6. An individual who applies for a license or a licensee who
33 is aggrieved by an order or determination of the board is entitled
34 to a judicial review under IC 4-21.5.

35 Sec. 7. The attorney general shall act as the legal adviser for the
36 board and provide any legal assistance necessary to carry out this
37 article.

38 SECTION 8. [EFFECTIVE JULY 1, 2003] (a) An individual who
39 constructs single family residences does not violate IC 25-34.3-5-1
40 or IC 25-34.3-8-5(1), both as added by this act, and may not be
41 disciplined or sanctioned for failure to have a residential building
42 contractor's license if the person obtains a residential building

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1 contractor's license not later than July 1, 2005.

2 (b) This SECTION expires January 1, 2006.

3 SECTION 9. [EFFECTIVE UPON PASSAGE] (a) As used in this
4 SECTION, "board" refers to the residential building contractors
5 licensing board established by IC 25-34.3-3-1, as added by this act.

6 (b) Before July 1, 2004, the governor shall make the initial
7 appointments to the board. In making an initial appointment, the
8 governor shall indicate the length of the term for which the
9 individual is appointed.

10 (c) The initial terms of office for the seven (7) individuals
11 appointed to the board by the governor are as follows:

12 (1) Three (3) members for terms of three (3) years.

13 (2) Two (2) members for terms of two (2) years.

14 (3) Two (2) members for terms of one (1) year.

15 (d) The initial terms begin July 1, 2004.

16 (e) An individual who does not meet the requirement of
17 IC 25-34.3-3-2(a)(1)(A), as added by this act, may be appointed to
18 the board under IC 25-34.3-3-2(a)(1), as added by this act, if the
19 individual:

20 (1) meets the requirements of IC 25-34.3-5-2, as added by this
21 act;

22 (2) has been actively engaged in the construction of single
23 family residences for at least five (5) years immediately before
24 the person's appointment; and

25 (3) obtains a license in accordance with IC 25-34.3-5, as added
26 by this act, not later than July 1, 2005.

27 (f) A board member appointed in accordance with subsection (e)
28 who does not obtain the requisite license in accordance with
29 IC 25-34.3-5, as added by this act, on or before July 1, 2005, shall
30 be considered to have resigned from the board on that date. The
31 governor shall fill the vacancy in accordance with
32 IC 25-34.3-3-3(c), as added by this act.

33 (g) Before January 1, 2005, the board shall adopt rules under
34 IC 4-22-2 to carry out this act.

35 (h) This SECTION expires July 1, 2008.

36 SECTION 10. An emergency is declared for this act.

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